

*Designated for electronic publication only*

**UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

No. 19-5734

ANDRE P. CORMIER, APPELLANT,

V.

ROBERT L. WILKIE,  
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

Before ALLEN, *Judge*.

**MEMORANDUM DECISION**

*Note: Pursuant to U.S. Vet. App. R. 30(a),  
this action may not be cited as precedent.*

ALLEN, *Judge*: Self-represented appellant Andre Cormier is the adult son of the late veteran James Cormier, who served the Nation honorably in the United States Army during World War II. In this appeal, which is timely and over which the Court has jurisdiction,<sup>1</sup> he contests an August 6, 2019, decision of the Board of Veterans' Appeals that denied entitlement to a transportation allowance in connection with the veteran's burial.<sup>2</sup> Because the Board's decision is based on the correct legal principles and is not clearly wrong, we must affirm.

**I. ANALYSIS**

Because appellant is proceeding pro se, he is entitled to both a sympathetic reading of his informal brief and a liberal construction of his arguments.<sup>3</sup> But he still carries the burden of demonstrating error on appeal in the Board's determination that he was not entitled to the benefits at issue.<sup>4</sup> Given the clear law and the undisputed dispositive fact, he has not done so.

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<sup>1</sup> See 38 U.S.C. §§ 7252(a), 7266(a).

<sup>2</sup> Record (R.) at 3-5.

<sup>3</sup> See *De Perez v. Derwinski*, 2 Vet.App. 85, 86 (1992).

<sup>4</sup> *Shinseki v. Sanders*, 556 U.S. 396, 409 (2009).

VA regulations provide that a person in appellant's place is entitled to receive certain monetary benefits associated with a veteran's interment.<sup>5</sup> One such benefit is a transportation allowance concerning the "costs of transporting the remains to the place of burial."<sup>6</sup> Appellant's entitlement to the transportation benefit is the only issue before the Court (as it was the only issue before the Board).

The transportation-cost benefit only applies to "burial in a national cemetery."<sup>7</sup> It is undisputed here that the veteran was buried at the Massachusetts Veterans Memorial Cemetery, which is a *state* cemetery located in Winchendon, Massachusetts.<sup>8</sup> The Board recognized this fact and determined that it was dispositive with respect to the transportation-cost benefit appellant sought.<sup>9</sup> Appellant does not contest this finding. And the Board was entirely correct that it is dispositive because the transportation-cost benefit is limited to burial in a national cemetery.<sup>10</sup>

The Court is deeply sympathetic to appellant's arguments. However, our constitutional responsibility is to apply the law. And that means we can't make the law as we may want it to be. So, we must affirm the decision before the Court.

## II. CONCLUSION

After consideration of the parties' briefs, the governing law, and the record, the Court AFFIRMS the August 6, 2019, Board decision on appeal.

DATED: May 7, 2020

Copies to:

Andre P. Cormier

VA General Counsel (027)

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<sup>5</sup> See 38 C.F.R. §§ 3.1700-3.1713.

<sup>6</sup> 38 C.F.R. § 3.1709(d)(1).

<sup>7</sup> 38 C.F.R. § 3.1709(a); *see also* 38 C.F.R. § 3.1709(b) (also setting out the requirement that the veteran be buried "in a national cemetery").

<sup>8</sup> R. at 132; *see also* Secretary's Brief at 4 (providing website for this state cemetery).

<sup>9</sup> R. at 4-5.

<sup>10</sup> 38 C.F.R. §§ 3.1709(a), (b).